

JOHN T. GORMAN  
Federal Public Defender  
First Hawaiian Bank Building  
400 Route 8, Suite 501  
Mongmong, Guam 96910  
Telephone: (671) 472-7111  
Facsimile: (671) 472-7120

Attorney for Defendant  
JOSEPH U.R.M. ELIBOSANG

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,	)	CR 07-00062
	)	
Plaintiff,	)	RESPONSE TO DRAFT PRESENTENCE
	)	REPORT
vs.	)	
	)	
JOSEPH U.R.M. ELIBOSANG,	)	
	)	
Defendant.	)	
_____	)	

Defendant, JOSEPH U.R.M. ELIBOSANG, by and through counsel, John T. Gorman, Federal Public Defender, respectfully accepts and adopts the findings of the Draft Presentence Investigation Report (PSI) with the following exception.

1. Restitution to Xiong's Family Recycling

The Draft PSI recommends that Xiong's Family Recycling be awarded \$1,584 in restitution for monies paid to Mr. Elibosang for the plaques in question. Mr. Elibosang contends that this company is not entitled to any restitution as they bought these plaques illegally and they should not profit from their criminality.

Guam law requires that scrap dealers follow certain procedures in purchasing

from the general public. 11 G.C.A. § 74103 **Record** states;

(a) Each scrap dealer shall keep a written record of each purchase of scrap , junk or other second-hand items;

(1) The record for all items except aluminum cans or tin cans or small items not brought in a motor vehicle shall include:

(i) the name and signature of the seller with a valid identification; and

(ii) the license number of the seller's vehicle.

(2) The record for aluminum cans or tin cans shall include the name and signature of the seller.

(b) Every transaction shall be recorded and the record shall be made available for inspection by law enforcement officers and agents of the Department of Revenue and Taxation for up to one (1) year.

Restitution is wrong as this scrap yard does not come before this court with clean hands. This scrap yard's purchases of the brass plaques were a clear violation of Guam law. (PSI, paragraphs 14-17). It is a mystery as to how they have escaped prosecution. The booming trade in stolen copper and bronze here on Guam and worldwide could not exist without the criminal behavior of unscrupulous scrap dealers. This scrap yard business, in fact, appears to be the unindicted co-conspirators in this case. The scrap yard proprietors deserve prosecution not restitution.

DATED: Mongmong, Guam, February 19, 2008.



*John T. Gorman*  
Federal Public Defender  
District of Guam  
Phone: (671) 472-7111  
Facsimile: (671) 472-7120  
GMT + 10:00 Hours

Attorney for Defendant  
JOSEPH U.R.M. ELIBOSANG

**CERTIFICATE OF SERVICE**

I, JOHN T. GORMAN, hereby certify that a true and exact copy of the foregoing document was filed with U.S. District Court and electronically served by the U.S. District Court Clerk's Office to the following on February 19, 2008:

KARON V. JOHNSON  
Assistant United States Attorney  
Sirena Plaza  
108 Hernan Cortez, Ste. 500  
Hagatna, Guam 96910

Attorney for Plaintiff  
UNITED STATES OF AMERICA

CARLEEN G. BORJA  
U.S. Probation Officer  
U.S. Probation Office  
Districts of Guam and NMI  
2<sup>nd</sup> Floor, U.S. District Court

DATED: Mongmong, Guam, February 19, 2008.



*John T. Gorman*  
Federal Public Defender  
District of Guam  
Phone: (671) 472-7111  
Facsimile: (671) 472-7120  
GMT + 10:00 Hours

Attorney for Defendant  
JOSEPH U.R.M. ELIBOSANG